Transfer (Criminal) Application No. 9 of 2003

Hon'ble Irshad Hussain, J.

Heard learned counsel for the applicant/petitioner and learned A.G.A.

This is a petition under Sec. 407 of the Code of Criminal Procedure with a prayer that the criminal case No. 919/2002, State Vs. Prem Kashyap and another, U/s. 447/506 IPC, P.S. Dalanwala District Dehradun, may be transferred to another district from district Dehradun.

The reason for the petition was that the respondent No.3 is prosecution the case and since he is a lawyer no eminent lawyer of Dehradun is ready to appear and accept the brief on behalf of the petitioners and conduct the case at Dehradun.

The dispute arose between the Sister-in-law of the petitioner No.1 and the respondent No.3, as a result of which the FIR was registered at Dehradun and after investigation, charge-sheet was submitted. Earlier, the petition for transfer of the case, was filed before the Allahabad High Court which was allowed on merit and the case was directed to be transfered to district of Saharanpur for trial according to law. After creation of State of Uttaranchal, the criminal case was sent back to Dehradun for trial, in view of the jurisdiction vested there with the competent court and this is the reason, the present petition came to be filed by the petitioners again for the above prayer.

Considering the uncontroverted averment made in the petition supported by the affidavit, it could safely be said that due to interference of respondent No.3 there is hardship for the petitioners to have their case defended by any lawyer of their choice. Considering this there is sufficient cause and reason to have the case transfered to some other district.

For the above reasons the petition is allowed and the criminal case No. 919/2002 is transferred to C.J.M. Haridwar for trial according to law.

(Irshad Hussain, J.)

05.08.2003:
NCM: